

## **EXHIBIT Q**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
MARLON CASTRO, OCTAVIO RANGEL,  
MARTIN VASQUEZ, ALFREDO MARTINEZ,  
RODOLFO MENDEZ, GERARDO ANGULO, JUAN  
MARTINEZ, JOSE CERVANTES, SERGIO  
SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,  
GUILLERMO MENDOZA, OMAR CASTILLO, and  
AMANDO MARTINEZ, individually and on behalf of  
others similarly situated,

*Plaintiffs,*  
-against-

SPICE PLACE, INC., SPICE AVE., INC.,  
BANGKOK PALACE II, INC., SPICE CITY, INC.,  
SPICE WEST, INC., KITLEN MANAGEMENT,  
INC., JUTTANA RIMREARTWATE,  
THANADHAM THANEESAENGHSIRI, KARNDA  
VAJIRABANJONG, KEVIN LEATHERS,  
KITTIGRON LIRTPANARUK, YONGYUT  
LIMLEARTVATE, and YUANYONG  
RIMREARTWATE,

*Defendants.*

-----X  
STATE OF NEW YORK )  
 ) ss.  
COUNTY OF NEW YORK )

Martin Vazquez, being duly sworn, says:

1. I am a resident of Queens County, New York.
2. I am a plaintiff in this matter and submit this affidavit in support of plaintiffs' motion for collective action and class certification.
3. I initially worked as a delivery person for the Spice restaurant located at 199 8<sup>th</sup> Avenue, New York ("Spice Chelsea").

07 CV 4657 (RWS)(DFE)

AFFIDAVIT OF  
MARTIN VAZQUEZ

**FLSA COLLECTIVE  
ACTION**

**Rule 23 Class Action**

**ECF Case**

4. I began working for Spice in approximately November 2001, and was terminated in May 2007.

5. Initially, I worked at the "Spice Chelsea" location from 11:00 am to 12:00 am Mondays, Wednesdays, and Thursdays, 11:00 am to 1:00 am on Fridays, 4:00 pm to 1:00 am on Saturdays, and 4:00 pm to 12:00 am on Sundays; I had Tuesdays off.

6. After approximately one year, my work schedule changed to 11:00 am to 12:00 am on Mondays through Thursdays, and Fridays and Saturdays 11:00 am to 1:00 am; my only day off was Sunday

7. After approximately six months, my schedule was changed to Mondays through Thursdays from 11:00 am to 12:00 am, Fridays from 11:00 am to 1:00 am, and Saturdays from 4:00 pm to 1:00 am.

8. After approximately four months, my schedule was changed to Mondays through Thursdays from 11:00 am to 12:00 am, and Fridays and Saturdays from 11:00 to 1:00 am.

9. At the start of my workday, I had to take up the clean carpets from the basement and place them in the kitchen, bring up vegetables, noodles, seafood from the basement to the kitchen, put away the food deliveries, and clean and cut vegetables for the chef.

10. As soon as the restaurant was available to accept orders, I was sent out to make deliveries.

11. When I returned from making deliveries, I had to continue cutting and preparing vegetables.

12. During the dinner shift, I also had to cut vegetables, seafood and poultry, and I had to wash dishes once a week before the restaurant closed for the night.

13. I also had to put away the food in the basement, take down the carpets from the kitchen to the basement, clean the kitchen and mop the floors.

14. I was required to buy a bicycle for my job at Spice, which I used to do deliveries at the restaurant.

15. Initially, I was paid \$10.00 for the morning shift (which was from 11:00 am to 4:00 pm), and \$20.00 for the dinner shift (which was from 4:00 pm to 1:00 am).

16. That meant that for the days that I worked the whole day (lunch and dinner shifts), I would be paid \$30.00 per day.

17. When I worked for half a day on Saturdays (4:00 pm to 1:00 am), I was paid \$20.00 for those days.

18. Initially, I was paid my wages in cash.

19. In approximately August 2004, I received a raise of \$5.00.

20. That meant that Spice paid me \$35.00 per day when I worked the whole day (lunch and dinner shifts).

21. In addition to my wages, I also was paid tips from Spice customers of \$20 on average during the day and \$35 on average at night.

22. From the tips I earned, I had to give \$3 to the manager for the person packing the deliveries.

23. During my time at Spice, I worked with at least 13 other delivery persons.

24. They had the same duties and work hours that I did and were not paid for the hours they worked over 40 per week.

25. I did not have a fixed meal break; I ate only when the chef said I could eat and I only had a few minutes to eat.

26. When I began working at Spice, I had to punch a time card at the start of the day and at the end of the day; the time card was only used to make deductions from my wages if I arrived late.

27. If I arrived 10 minutes late for work, Spice deducted \$5.00 from my wages; if I arrived 15 minutes late, they deducted \$10.00 from my wages.

28. Somewhere in January 2005, the system changed, and I had to swipe a card in a machine that recorded my hours of work.

29. Upon instructions by the chef, Soi, I had to swipe the card one hour and a half before I left for the day.

30. From approximately February 2006 through May 2006, I was ordered to work at the Spice Chelsea location, in addition to the Spice location at 60 University Place, New York ("Spice University").

31. Spice required that I work four days at Spice Chelsea and two days at Spice University.

32. In addition during this time, Spice also required that I also fill in for absent employees at the Spice location at 75 2<sup>nd</sup> Avenue ("Sea").

33. During this period of time, defendants split my time worked each week among all of these locations.

34. Defendants supplied paystubs separately reporting my hours worked for these three different locations.

35. On each of these paystubs, defendants reported hours worked under separate social security numbers, which were arbitrarily selected by defendants.

36. Furthermore, I gave my tax identification number to the chef, Soi, and at no time was this correct tax identification number used by defendants in their paychecks to me.

37. Notably, my time worked in each of these locations was kept under 40 hours a week on the paychecks, but in total the number of hours I worked was well over 40 hours a week.

38. Attached hereto as "Exhibit A" are copies of three paystubs I received for the week period ending on 2/5/06, which show me being paid separately for each location, and under three social security numbers arbitrarily chosen by Spice group, and not properly aggregating my hours for the week worked.

39. I inquired to the chef as to the reason for the restaurant using three different social security numbers in my paychecks instead of the taxpayer id I had provided them when they began paying us with checks.

40. The chef informed me that "Lenny" had told him that since we did "not have social security numbers, the city had provided him with the numbers that appeared in our paychecks."

41. After May 2006, my supposed schedule was reduced to 40 hours a week.

42. On many weeks thereafter, Spice required me to work more than 40 hours, but I never received any overtime pay.

43. In fact, I saw Soi, the chef, going into the computer that had my start and stop times, and change the hours we had entered into the computer.

than 40 hours per week, I was being paid for less than 40 hours.

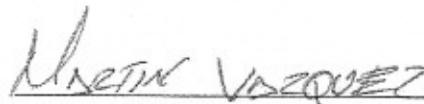
45. He informed me that Lenny had ordered him to ensure that no delivery person in  
the restaurant was paid for more than 40 hours for any week.

46. The chef warned me that if I continued complaining about my pay not reflecting  
my actual hours of work, he would reduce my schedule by half a day.

47. There is a schedule posted in the kitchen and in the basement of the restaurant,  
which showed the names of the employees, and the days they are supposed to be working and  
their days off.

48. The only time I saw a poster at Spice group with information about the minimum  
wage and overtime was after February 2006.

49. Spice group never informed me that they were going to take a tip credit towards  
my wages, and I never received overtime compensation for the hours I worked over forty in a  
work week.



Martin Vazquez

Martin Vazquez

Sworn to before me  
this 10<sup>th</sup> day of May 2008.



MICHAEL FAILLACE  
NOTARY PUBLIC STATE OF NEW YORK  
Notary Public  
No. 02FA0120964  
Qualified in New York County  
Commission Expires January 03, 2009

-RWS EXHIBIT R Document 56-7 Filed 05/21/2

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(212) 317-1200  
*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SANCHEZ, ISRAEL SANCHEZ, MARTINE PEREZ,  
GUILLERMO MENDOZA, OMAR CASTILLO, and  
AMANDO MARTINEZ, individually and on behalf  
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*Plaintiffs,*  
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SPICE PLACE, INC., SPICE AVE., INC.,  
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KITTIGRON LIRTPANARUK, YONGYUT  
LIMLEARTVATE, and YUANYONG  
RIMREARTWATE,

*Defendants.*

-----X  
STATE OF NEW YORK )  
 ) ss.  
COUNTY OF NEW YORK )

Sergio Sanchez, being duly sworn, says:

1. I am a plaintiff in this matter and submit this affidavit in support of the plaintiffs' motion for collective action and class certification.

07 CV 4657 (RWS)(DFE)

**AFFIDAVIT OF**  
**SERGIO SANCHEZ**

**FLSA COLLECTIVE  
ACTION**

**Rule 23 Class Action**

**ECF Case**

2. I am a resident of Queens County, New York.

3. I was hired as a delivery boy for the Spice restaurants, defendants in this lawsuit, from approximately November 2003 through August 13, 2006.

4. I first worked at the Spice restaurant located at 199 8<sup>th</sup> Avenue, New York, New York ("Spice Chelsea").

5. The first two months that I worked at Spice Chelsea, I worked a schedule from Monday through Thursday from 4:00 pm to 11:30 pm; and Fridays and Saturdays from 4:00 pm to 1:00 am.

6. My work schedule then changed to Sundays to Thursdays 11:00 am to 11:30 pm; and Fridays and Saturdays 11:00 am to 1:00 am; six days a week. I had one day off during the week.

7. The chef at Spice Chelsea named Soi told me that I had to come in at least 10 to 15 minutes earlier than my start time of 11:00 am.

8. At the beginning of my workday, I had to bring up mats from the basement to the kitchen; I had to bring up vegetables, seafood, noodles and chicken to the chefs in the kitchen; I had to prepare the rice; cut vegetables; and wash the sidewalk.

9. At around 12:00 pm, when the restaurant would begin taking the lunch orders, I would begin making some deliveries.

10. Since there were 4 other delivery boys during this shift, I usually had to continue my food preparation duties until I was given a delivery.

11. As soon as I would return from making a delivery, I would then have to continue my food preparation work.

12. In the afternoon, in addition to cutting vegetables and cleaning and cutting shrimp and calamari, I would be required to unload food and other supplies from the owner's (Lenny) van, and take them down to the basement and store them.

13. I would also be required to clean and separate basil leaves, and prepare spring rolls and desserts.

14. At around 7:00 pm, we would then begin making deliveries for the dinner shift.

15. At around 9:00 pm, when delivery orders would slow down, I would either be required to wash the dishes or take down food and other supplies that were not used that day in the kitchen to the basement.

16. On the nights that I was required to wash dishes, I would have to wait until the last customer left the restaurant to take out the garbage from the kitchen to the street.

17. On the nights when I was not required to wash dishes, I would take down the mats from the kitchen to the basement and wash them. I would also sweep and wash the kitchen, and wash the basement and the steps connecting the basement and the kitchen.

18. On those nights I was required to take out the garbage from the basement to the street.

19. At the end of every night, we would have to pay the restaurant the non-tip money we had made in deliveries, and sit around and wait until Pat, the restaurant manager, reconciled the accounts for the orders.

20. I was paid \$10.00 for the morning shift (which was for 11:00 am to 4:00 pm), and \$20.00 for the dinner shift (which was from 4:00 pm to closing).

21. That meant that for the days that I worked the whole day (lunch and dinner shifts), I would was paid \$30.00 per day.

22. When I worked for half a day (4:00 pm to 1:00 am), I was paid \$20.00 for those days.

23. In addition to my wages, I also earned tips from the customers at Spice.

24. I would receive on average a sum of \$15 during the lunch shift, and \$30 during the dinner shift.

25. From the tips I earned, I had to give \$3 to the manager for the person packing the deliveries.

26. I was paid my wages in cash until January 2006.

27. When I received my wages in cash, I was also required to sign a "coupon" and return this to Soi.

28. If I did not sign and return this "coupon", \$5 was deducted from my wages.

29. Because I had to turn over these coupons to the Assistant Attorney General, who was investigating the restaurants, I could not return these coupons to the restaurant for a period of almost a year, and thus had \$5 deducted from my weekly pay for this time period.

30. In January 2006, I began to receive my wages in check.

31. When I first started to work at Spice, I had to punch a time card at the start of the day and at the end of the day.

32. The time card was only used to make deductions from my wages if I arrived late.

33. If I arrived 10 minutes late for work, Spice deducted \$5.00 from my wages; and if I arrived 15 minutes late, they deducted \$10.00 from my wages.

34. Approximately, sometime in 2005, I had to swipe a card in a machine that recorded my hours of work.

35. Sometime later, the system changed again, and I had to punch in a code in a computer when I started work and at the end of the workday.

36. In January 2006, I was assigned to work at Spice Chelsea and the Spice restaurant located at 60 University Place, New York ("Spice University").

37. Spice required that I work 3 days at Spice Chelsea and 3 days at Spice University.

38. Spice gave me separate paychecks for each location that I worked, and the checks incorrectly reported my hours worked for each location.

39. On each of the paystubs for the separate locations, Spice reported my hours worked under separate social security numbers, which were arbitrarily selected by Spice.

40. I offered my tax payer identification number to Soi, the chef, and he turned it down, informing me that Lenny, the owner, had social security numbers that he had received from the city to be used in our paychecks.

41. Even though during this period of time I worked much more than 40 hours per week, my paychecks for each restaurant would always reflect 40 or fewer hours per week.

42. After Spice began paying us with checks, Soi, the chef, would require me to enter my pin number into the computer more than an hour before I would stop working.

43. Soi, the chef, would warn us that if in any week the computer recorded us having worked more than 40 hours in a week, he would have no other alternative but to not let us work for one night shift.

worked about the same hours per week and had the same duties.

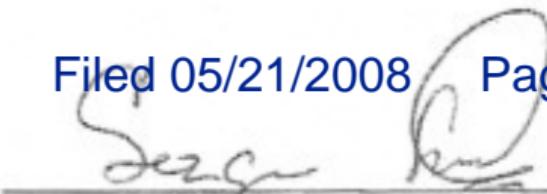
45. I did not have a fixed meal break; I ate only when the chef said I could eat and I only had a few minutes to eat.

46. I bought a bicycle for my job at Spice which I used to do deliveries at the restaurant.

47. There is a schedule posted in the kitchen and in the basement of the restaurant, which showed the names of the employees, and the days they are supposed to be working and their days off.

48. I did not see any sign posted in the kitchen or basement that gave me information about minimum wage or overtime laws until after I informed the Department of Labor in 2005 of this fact.

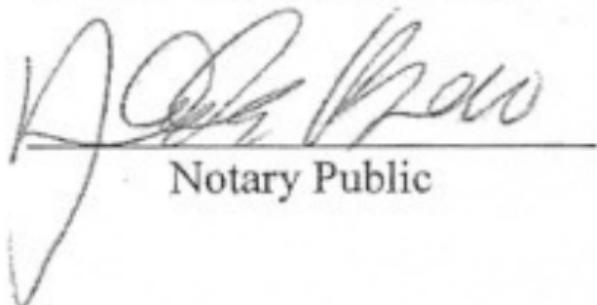
49. Spice never informed me that they were going to take a tip credit towards my wages and I never received overtime compensation for the hours I worked over forty in a work week.



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Sergio Sanchez

Sworn to before me  
this 13<sup>th</sup> day of May 2008.



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Notary Public

YOLANDA RIVERO  
Notary Public, State of New York  
No. 02RI6061584  
Qualified in Queens County  
Commission Expires July 16, 2014